

Appln No. 10/779,534
Amdt date March 23, 2006
Reply to Office action of September 23, 2005

REMARKS

Upon entry of the present response, claims 1 to 49 remain pending in the application.

Independent claims 1, 22, 39 and 44 have been amended in this response to correct informalities.

The Examiner's indication of allowable subject matter is noted and appreciated.

In view of examinations in currently pending related applications, Applicant submits with this response an Information Disclosure Statement in order to cite references not previously made of record in this application. It is submitted that all claims continue to be allowable in view of the cited references, and such action is respectfully requested.

Applicant acknowledges the provisional obviousness-type double-patenting (ODP) rejection over three pending applications having the same filing date. All claims in the present application have been rejected as unpatentable over claim 27 of copending Application No. 10/779,528 and claim 6 of copending Application No. 10/779,480. Claims in these two pending applications are currently rejected and so no patent has issued, nor have all grounds for rejection been removed; accordingly, the filing of a Terminal Disclaimer in the present application, to obviate an ODP rejection with respect to these two applications, would be considered premature if a patent were to issue first on the present application. In addition, Applicant's may consider dividing out claim 27 from the '528 application and claim 6 from the '480 application and therefore avoid the basis for the provisional double-patenting rejection with respect to those two applications.

All of the claims in the present application also have been rejected for obviousness-type double-patenting as unpatentable over claim 27 of copending Application No. 10/779,526. Is the Examiner referring the claims 1 to 7 of the '526 application? The '526 application contains only claims 1 to 7. Referring to MPEP 804(I)(B)(1), this section states, in pertinent part, that when two provisional ODP rejections in two pending applications are the only remaining rejections, and if both applications are filed on the same day, the Examiner should determine which application claims the base invention and which application claims the improvement; and the ODP rejection in the base application can be withdrawn without a terminal disclaimer, while the

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ODP rejection in the improvement application cannot be withdrawn without a terminal disclaimer.

Accordingly, the Examiner is requested to consider the '526 application to be the base application as between the present application and the '526 application and to reconsider the ODP rejection in view of these comments.

If any issues remain as a result of the filing of this response, the Examiner is requested to telephone the undersigned attorney to expedite allowance of the application.

Respectfully submitted,
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